

## **REMARKS**

Claims 36-54 and 56-79 are pending. Claims 70-79 are newly-presented.

### ***Drawings***

The Examiner objected to the drawings as failing to include reference numeral provided in the description, because the same reference numeral “103” has been used to denote two components, and because Figure 1 should be labeled “Prior Art”. Applicants have enclosed replacement sheets for Figs. 1, 2, 5, 6 and 12 to overcome these objections. Entry and withdrawal of the objections is requested.

### ***Specification***

Applicants have amended the summary of invention. In addition, the corrections required by the Examiner have been made.

### ***Claim Objections***

Claims 45, 49, 51, 52, 56, 59, 60, 62, 65, 68 and 69 have been amended to overcome the formalities and clarity objections. Entry and withdrawal of the objections is requested.

### ***Claim Rejections - 35 U.S.C. §112***

Claim 45 was rejected under 35 U.S.C. §112, second paragraph as allegedly being indefinite. Claim 45 has been amended to recite “wherein said second conduit is more flexible than said first conduit”. Entry and withdrawal of the rejection is requested.

*Claim Rejections - 35 U.S.C. §102(e)*

Claims 36, 37, 39, 31, 43-45, 47-49, 53, 58-61 and 63 were rejected under 35 U.S.C. §102(e) as allegedly being anticipated by United States Patent No. 6,595,214 to Hecker et al. The Examiner has listed Hecker as a §102(e) reference, however, Applicants note that Hecker is a §102(b) reference as the effective filing date of this application is the PCT application filing date, 8 October 2004, and Hecker issued more than one year before the effective filing date of this application.

Applicants have amended claim 36 to include the features of claim 55. Amended claim 36 now specifies “a sling connected to said headgear, said sling adapted to connect to and support said conduit”. Applicants have cancelled claim 55. Therefore, Applicant submits that the rejection under 35 U.S.C. §102(e) is moot. Applicant addresses the rejection of amended claim 36 by the combination of Hecker in view of United States Patent No. 6,470,886 to Jestrabek-Hart (which was the rejection of claim 55).

Hecker discloses an interface, a conduit and a headgear where the conduit includes an angular adjustment mechanism and vertical adjustment mechanism. Hecker does not disclose a sling connected to the headgear and adapted to connect to and support the conduit.

Jestrabek-Hart discloses an interface which a headgear, a flexible conduit and an elastic strap on the headgear. The Examiner contends the strap 13 from Fig. 6C is a sling. Jestrabek-Hart does not disclose a **sling** that is attached to the headgear and is adapted to connect to the conduit and support the conduit as required in amended claim 36. A “sling” according to the *Merriam and Webster Dictionary* is usually a looped line used to suspend or carry something. The sling according to claim 36, supports the conduit in a suspended manner. There is no

disclosure of sling or loop that supports the conduit in Jestrabek-Hart. Jestrabek-Hart discloses two straps that connect to the top part 27 of the mask in order to hold the mask on to the user's face. The straps disclosed in Jestrabek-Hart are used to position and hold the mask on the user's face. The straps do not form a loop and support the conduit in a suspended fashion as required by a sling.

Jestrabek-Hart only discloses a means to hold the mask in the correct position and orientation. The straps provide correct positioning of the mask on a user's face as stated in Col. 7, lines 61-65 that state:

piece 27 that attaches to the respiratory mask and goes above the nose, between and above the eyes and usually then has a part that rests against the face near or above in between the eyebrows

and also at Col. 6, lines 59-61, which states:

elastic straps, one on each side to hold the top 27 part of the **mask** to, and touching the eyebrow/forehead area of the face.

These sections clearly illustrate that the straps 13 are to hold the mask in the correct orientation on the user's face and do not support the conduit.

Further, there is no mention in Jestrabek-Hart about any of the extension straps supporting the conduit. The straps 13 are used to position the mask and hold the mask in the correct place. Jestrabek-Hart also states in Col. 6, lines 44-45 that *"each end of the 13 elastic straps are used to attach the respiratory mask to the headgear"*. Claim 36 requires the sling to support the conduit and not the interface.

Therefore, amended claim 36 not rendered obvious by the cited prior art because the prior art does not disclose a sling that attaches to the headgear and to the conduit to support the conduit. Reconsideration and allowance of amended claim 36 is requested.

Claims 37, 39, 31, 43-45, 47-49, 53, 58-61 and 63 are dependent upon claim 36 which Applicants submit is allowable. Therefore, Applicants submits that these claims are allowable. Reconsideration and allowance is requested.

Claim 38 was rejected under 35 U.S.C. §103 as allegedly being unpatentable over Hecker in view of United States publication No. 2002/0056457 to Demers et al. Claim 38 is dependent upon claim 36 which Applicants submit is allowable. Therefore, Applicants submits that claim 38 is allowable. Reconsideration and allowance is requested.

Claims 40 and 62 were rejected under 35 U.S.C. §103 as allegedly being unpatentable over Hecker in view of United States Patent No. 6,470,886 to Jestrabeck-Hart. Claims 40 and 62 are dependent upon claim 36 which Applicants submit is allowable. Therefore, Applicants submits that these claims are allowable. Reconsideration and allowance is requested.

Claims 42, 46, 50, 54, 56, 57, 64, 67 and 68 were rejected under 35 U.S.C. §103 as allegedly being unpatentable over Hecker in view of United States publication No. 2003/0196662 to Ging et al. Claims 42, 46, 50, 54, 56, 57, 64, 67 and 68 are dependent upon claim 36 which Applicants submit is allowable. Therefore, Applicants submits that these claims are allowable. Reconsideration and allowance is requested.

With further regard to claim 42, claim 42 specifies “a sliding connection between said headgear and said interface when said interface is engaged with said user”. The connector piece 128 of Ging allows a user to adjust the size of the strap on the headgear. Connector piece 128

does not connect the mask and the headgear. In Ging, the mask is connected to the headgear by clips 82 as stated in Paragraph 120. These clips do not allow any sliding of the headgear relative to the mask, and neither does connector 128. Therefore, Applicants submit that claim 42 is not rendered obvious by the cited prior art.

With further regard to claim 54, claim 54 specifies “said headgear attaches to said interface by a sliding strap”. Ging only discloses a connector 128 that allows a user to adjust the size of the headgear straps. There is no disclosure of a sliding strap that connects the headgear and interface. The headgear and interface are connected by clips 82 in Ging. Clips 82 are not a sliding strap. Therefore, Applicants submit that claim 52 is not rendered obvious by the cited prior art.

With further regard to claim 56, claim 56 specifies “a sliding strap attaches to said conduit to provide support to said conduit”. This feature is not shown in Figure 1 of Ging; the conduit is attached to the mask by feature 180 which allows the conduit to rotate relative to the mask. There is no disclosure of a sliding strap that connects the conduit to the headgear wherein the sliding strap also provides support to the conduit. Further, there is no disclosure of a sliding strap. Therefore, Applicants submit that claim 56 is not rendered obvious by the cited prior art.

Claim 51 was rejected under 35 U.S.C. §103 as allegedly being unpatentable over Hecker in view of United States publication No. 2001/0042547 to McDonald et al. Claim 51 is dependent upon claim 36 which Applicants submit is allowable. Therefore, Applicants submits that claim 51 is allowable. Reconsideration and allowance is requested.

Claim 52 was rejected under 35 U.S.C. §103 as allegedly being unpatentable over Hecker in view of United States Patent No. 7,290,546 to Sprinkle et al. Claim 52 is dependent upon

claim 36 which Applicants submit is allowable. Therefore, Applicants submits that claim 52 is allowable. Reconsideration and allowance is requested.

Furthermore, claim 52 has been amended to specify “the glider mechanism allows a sliding connection between said headgear and said forehead rest”. Hecker discloses a mask with a headgear and a conduit, the conduit having an angular adjustment mechanism. Sprinkle discloses a mask with a forehead support connected to the mask. The forehead rest can pivot with respect to the mask. Claim 52 requires the transverse strap to be connected to the forehead rest by an adjustable glider mechanism. The Examiner states the vertical member 56 in Sprinkle is a glider mechanism. Sprinkle discloses a mechanism that allows the forehead rest to pivot with respect to the mask body as stated in Col. 4, lines 38-45 which states:

The vertical member 56 has two areuate grooves 60, one in each side. Two arms 62, preferably arcuate in shape, extend from the top of the central body 16, as shown in FIGS 21-23. Each arm 62 has an inwardly extending ridge 64 for mating with a groove 60 in the vertical member 56 of the forehead support 20. This arcuate ridge-in-groove attachment permits the forehead frame 50 to pivot with respect to the central body 16.

Sprinkle does not disclose a gliding mechanism that allows a sliding connection between the headgear and forehead rest. Claim 52 is novel and inventive over the cited prior art because Sprinkle and Hecker do not disclose a sliding connection between the headgear and forehead rest by a gliding mechanism.

Claims 65 and 66 were rejected under 35 U.S.C. §103 as allegedly being unpatentable over Hecker in view of Ging and further in view of Sprinkle. Claims 65 and 66 are dependent upon claim 36 which Applicants submit is allowable. Therefore, Applicants submits that these claims are allowable. Reconsideration and allowance is requested.

Claim 69 was rejected under 35 U.S.C. §103 as allegedly being unpatentable over Hecker in view of Ging and further in view of United States publication No. 2004/0035427 to Bordewick et al. Claim 69 is dependent upon claim 36 which Applicants submit is allowable. Therefore, Applicants submits that claim 69 is allowable. Reconsideration and allowance is requested.

### ***Newly-Presented Claims***

Applicants have added new claims 70-79 which cover the embodiments shown in Figures 7-12. Support for claim 70 is provided in original claim 1, paragraph [0061] and Figs. 7 and 8. Support for claim 71 is provided in paragraph [0061] and [0062]. Support for claim 72 is provided in claim 55 as filed. Support for claim 73 is provided in paragraph [0062], Fig. 8 and original claim 56. Support for claim 74 is provided in claim 42 as filed. Support for claim 75 is provided in claim 52 as filed. Support for claim 76 is provided in claim 54 as filed. Support for claim 77 is provided in claim 48 as filed, paragraph [0061] and Figs. 7 and 8 of the specification. Support for claim 78 is provided in Fig. 7 and paragraphs [0061] and [0062]. Support for claim 79 is provided in paragraph [0062] and Fig. 8. References to paragraphs herein are done in relation to the published application Publication No. US-2007-0175480-A1.


The newly-presented claims are novel and non-obvious over the prior art of record because they require a support strap attached to the headgear, and the support strap forming a loop to attach to and support the conduit. This feature is not disclosed by the prior art. Therefore, Applicants submit newly-presented claims 70-79 are allowable. Entry, consideration and allowance is requested.

A Petition for a Two-Month Extension of Time is also concurrently submitted with this Amendment to extend the date for response up to and including January 28, 2010.

Should the Examiner have any questions regarding this Amendment, the Examiner is invited to contact one of the undersigned attorneys at (312) 704-1890.

Respectfully submitted,

Dated: Jan. 28, 2010

By:   
Raiford A. Blackstone, Jr., Reg. No. 25,156  
Linda L. Palomar, Reg. No. 37,903

TREXLER, BUSHNELL, GIANGIORGI,  
BLACKSTONE & MARR, LTD.  
105 W. Adams Street, 36th Floor  
Chicago, Illinois 60603

AK9194.WPD